

allow me to give my ruling to-morrow, Mr. Ramachandra Ayyar?

Mr. T. A. Ramachandra Ayyar.—Yes, Sir. To-morrow being the last day, I think that many Members may go by the evening train, and the House will be thin. If it will not cause any inconvenience to the Chair, I request that the ruling may be given after an hour, so that it may be taken up for discussion this evening itself.

3. Cochin Census Bill.

President.—The next item is the "Cochin Census Bill".

Mr. A. Sankara Menon.—Sir, I beg to move that the Cochin Census Bill be taken up and passed.

Mr. T. K. Krishna Menon.—I second it.

President.—The question before the House is that the "Cochin Census Bill" be finally passed by this House.

Question put and agreed to.

4. Cochin Kuri Bill (contd.)

President.—We shall proceed with the consideration of the Cochin Kuri Bill. The last speaker yesterday was Mr. C. J. Mathew.

Mr. C. J. Mathew.—Sir, I move that the Cochin Kuri Bill be re-committed to another committee consisting of two more Members. Before doing so, I would like to know whether such a procedure is permissible under the law.

President.—The point to be considered is whether it is to be re-committed to the original Select Committee or to a Select Committee which might be enlarged. The question is one of first impression.

Dr. A. G. Menon.—This has been done in the Madras Council, and Mr. Sankaran Unni was appointed to consider the Malabar Tenancy Bill.

President.—The Madras case is not a parallel to this. I think your motion will come under Standing Order No. 37, clause (2). Is this also not without limitation?

Mr. C. J. Mathew.—Sir, my object in moving for the re-committal is to enable another committee to consider all the amendments that are now tabled before the Council.

Mr. K. P. Kannan Nayar.—I think that the Hon'ble Member did not say that, viz., without limitation.

President.—Then Mr. Mathew may move an amendment.

Mr. C. J. Mathew.—My amendment is that the Bill may be considered with regard to all the amendments.

President.—The rule is silent as to whether this should be re-committed to the original committee or not. But you know that, in the case of review petitions to set aside decrees, the review is decided by the same Judges who heard the appeal.

Mr. C. J. Mathew.—There are nearly seventy amendments, and it will take a very long time for the Council to consider all the amendments one by one. In that case we may require even a Special Session for considering the Kuri Bill itself. Therefore, I would request to leave the matter to the old committee once more with Messrs. V. D. Ouseph and Mr. C. V. Kuriyan co-opted.

Mr. A. B. Salem.—They have sent in these amendments because they are very much interested in this.

Dr. A. R. Menon.—I may also place one fact before you, Sir. This morning we all met together and came to the conclusion that it would be better to re-commit the Bill to the Select Committee with these two gentlemen also. Our object was to save the time of the Council and to present the Bill in a better form to suit the convenience of those two Members also. We can also have a free discussion of all the amendments in the Select Committee. These were not before us when we presented our report.

President.—Is there any difference of opinion among the Members on this subject? This is a question of first impression here. We had no such case before. So, before we do something, we must be sure that the procedure adopted is correct. My point is, if other Councils have adopted this, then we need not object to it.

Dr. A. G. Menon.—Sir, in the case of the Malabar Tenancy Bill, the re-committal was to the Council and not to the committee. So it is altogether a different matter. But, my question is why should we look to Travancore and Madras for a precedent in this matter? We can very well create a precedent for our Council.

President.—Here the committee has done its work, and the report is now before the Council, and now you want the matter to be re-committed. I think it is just like a review.

Mr. A. B. Salem.—I wish to add a few words. Re-committal must be to the original committee. When the original committee prepared the report, they were not in possession of the new amendments. So, if the Bill is re-committed, they will be in the same position for reconsidering the matter. When they are considering a Bill, we can co-opt Members at any stage. Therefore, what I submit is, that the Bill must be re-committed to the original committee, and we must add Members to that committee.

President.—When the re-committal is made to the original committee, it can be enlarged at any time.

Mr. V. K. Kochunni Menon.—Then it will be for a reconsideration of the report.

President.—There is the original committee which might be enlarged at any time. After all, what is the principle we are violating? What we have to see is, apart from the Regulations, whether there is a violation of any principle.

Mr. V. K. Kochunni Menon.—Re-consideration implies that it is to be done by the old committee.

President.—Then this will only be a continuation of what the old committee has already done.

Mr. Thomas Manjuran.—Besides in this case there is one further matter. Many of the amendments seem to be very reasonable, and if there is no precedent we shall create one. I do not think that the Hon'ble the Deputy President need be so very anxious about this. Here after all the Select Committee is only making certain recommendations to the House, which have no legal force. We can accept them or reject them.

President.—I think that the re-committal will have to be moved as two separate motions. After the Bill is re-committed we will have to co-opt Members.

Mr. T. K. Krishna Menon.—I would like to say a word about this. Personally, I do not care whether any Member is co-opted or not. But when we establish a convention, we should take care to see that it is on proper lines.

Dr. A. G. Menon.—Now we are only at the re-committal stage and not the co-option of Members.

Mr. C. J. Mathew.—I move that the Cochin Kuri Bill be re-committed.

Dr. A. G. Menon.—I second it.

President.—Any Member wishing to speak on this motion?

Mr. Thomas Manjuran.—There is no necessity for that.

President.—The question before the House is that the Cochin Kuri Bill be re-committed to the Select Committee under Standing Order 37 (2).

Mr. K. P. Kannan Nayar.—Sir, I think that the motion will have to specify which all amendments are to be considered. Because clause (b) says: "with regard to particular clauses or amendments".

President.—The Member in charge may move that the Bill be re-committed. It comes under that. The points to be considered after re-committal will be under Standing Order No. 37 (2). But when you come to (2) there is also a subdivision there.

Mr. K. P. Kannan Nayar.—It is not a re-committal. What is a re-committal is defined in Standing Order 37, clauses (a) and (b).

President.—Re-committal can only be for a consideration of certain specified matters. All the amendments that are now

before us shall be considered after re-committal. Before I put the motion I shall add this also to be more clear.

Motion put and agreed to.

President.—When is the Select Committee's report to be re-submitted? Shall we fix 3 months or more?

Dr. A. G. Menon.—Two months. On the last day of the Budget Session we may take it.

President.—Two months. Then the next motion is for co-option.

Mr. C. J. Mathew.—I beg leave of the Council to move that two more Members be co-opted, namely, Mr. V. D. Ouseph and Mr. C. V. Kuriyan.

Mr. K. P. Kannan Nayar.—With reference to that, I would like to say one word. I very much wish that under the present Rules there was this power. But my doubt is, when we are doing a thing, it should be under the Rules or under the convention. That is, it should not be said that we have been doing something which is not warranted by our Rules here. It is only for that. Personally I wish there were that power, so that a committee may be constituted and enlarged at any time. The only rule that I can find is S. O. 37, that is with reference to re-committal. Re-committal can only be to the original committee. The only rule which may come to our help is S. O. 33 clause 2. Clause (1) says: "The official Member in charge of the Department to which the Bill relates and the Member who introduces the Bill shall be Members of every Select Committee and it shall not be necessary to include their names in any motion for the appointment of a Committee" with reference to the Bill. Then clause (2) says: "The other Members of the Committee shall be named by the Council when the motion that the Bill be referred is made, or at any subsequent sitting". The only question is what is the nature of the motion that is made. Does it mean the original motion to appoint the Select Committee or the motion to add the other Members to the committee that is already in existence? Ordinarily this can only mean a motion to refer a Bill to a particular committee. That is when a Bill is read in Council, introduced, and the mover of the Bill at once moves that the Bill be referred to a Select Committee. So far as the mover and the official Member are concerned, they shall always be the Members of the committee. So far as the remaining Members are concerned, the Council may elect them at once or at a subsequent meeting. If it is strictly interpreted, that rule can apply to a nomination of all the other Members to the committee.

Mr. Thomas Manjuran.—At what stage?

Mr. K. P. Kannan Nayar.—At a stage when the motion is made. So far as the Select Committee is concerned, there are certain Members who are to be there indispensably, the

mover and the Member in charge of the Department. So far as the other non-official Members are concerned, the Council may either appoint them all at once or their appointment may be postponed to another meeting.

Mr. Thomas Manjuran.—Please read that with 31 (4): "The Member in charge may then immediately move that the Bill be referred to a Select Committee composed of such members as he may specify in his motion."

Mr. K. P. Kannan Nayar.—Because we find here "if the motion be seconded, the principle of the Bill and its general provisions may then be discussed, and if the motion be carried, the Secretary shall read the title of the Bill." That stage has passed. "The Member in charge may then immediately move that the Bill be referred to a Select Committee composed of such Members as he may specify in his motion."

Mr. Thomas Manjuran.—He cannot move for a Select Committee without naming the Members. He must name the Members. At any subsequent meeting is contemplated for cases like this.

Mr. K. P. Kannan Nayar.—The other Members of the committee shall be named by the Council. The Member moves that such and such Members shall form the committee. The Council may or may not accept. Is the Council to accept the names suggested by the mover? The Council may say, "All right. We accept." They may postpone the naming of the Members. So that, the only thing that appears to me, so far as that rule is concerned, is that it can only apply to the original committee itself. Personally I have no objection. I wish there were this power. Because we are doing something for which there is no precedent here, we must be careful in laying down precedents.

Mr. Thomas Manjuran.—I don't think there is any difficulty. 31 clause 4 reads: The member in charge may then immediately move that the Bill be referred to a Select Committee composed of such members etc." Presumably, no motion can be made by that Member, without so naming. No motion that the Bill be referred to the Select Committee can be made, without nominating certain Members. Section 33 (2). "The other members of the Committee shall be named by the Council when the motion that the Bill be referred is made or at any subsequent sitting." That is to say, I submit, there is no difficulty, if we construe the latter portion of the Section 'or at any subsequent sitting.' That is giving us elastic powers for selecting Members whenever required. According to the first portion the other Members shall be named when the motion that the Bill be referred to is made. That read along with clause (4) implies that, when a committee is nominated, Members also will be nominated. The Council will have power of appointing other Members whenever it thinks it necessary.

President.—Should we not read 31 and 33 together and understand them together? Do they relate to two different processes?

Mr. Thomas Manjuran.—To two different stages.

President.—It is the mover of the Bill that has the right to move for a reference to a Select Committee and in that Select Committee he may name the Members.

Mr. Thomas Manjuran.—He has been given the right to move for the appointment of a Select Committee composed of specified individual Members. Should he not name them? He should say, "I move that this Bill be referred to a Select Committee composed of A, B, C and D". The official Member and the mover of the Bill need not be included by name. They come there by virtue of their office. They are necessarily included.

Clause 5 must also be read along with it. 'If the Council agrees to such a motion, it shall appoint the committee and direct that its report be submitted within a specified period'. Now, in understanding it, we have to consider section 33, clauses 1 and 2. A distinction has been made between the first stage when the Council is bound to appoint a committee when the motion is accepted and the second one when co-options may be necessary. By section 31 (5) it is not optional. It must appoint a committee and direct its report to be submitted. So the moment the Council is agreed, a committee must be nominated. What is the meaning of the 'at any subsequent meeting'? We must try to give a meaning to that.

President.—Standing Order 31: "If the Council agrees to such a motion", what is the motion?"

Mr. Thomas Manjuran.—Motion to appoint a Select Committee. The distinction is this. The Member may move for A, B, C and D. The Council may appoint E, F, G and H. They are also included. When a motion is agreed to, it implies a Select Committee as well as the persons composing the Select Committee.

This is the distinction. Suppose one Member moves: "I want a Select Committee composed of A, B, C and D." The Council may say, "we will have a Select Committee but we will give you the Members E, F, G and H".

President.—It is an indivisible motion. If the Council agrees to such a motion it shall appoint a committee. What is the motion? "The member in charge may then immediately move that the Bill be referred to the Select Committee composed of such Members as he may specify in his motion." It is a motion. It is one indivisible motion. If it is agreed to, a committee is appointed.

Mr. Thomas Manjuran.—Clause 2 of section 33 should be read. "The other members shall be named by the Council". If, as a matter of fact, the motion made by a Member including the name has to be accepted or rejected as such, it would mean that the Council will have no option of naming the Members. Clause 2 of 33 would then be meaningless. I submit we cannot interpret it like that. The Member in charge of the Bill may move for a Select Committee composed of certain individuals to be appointed. The Council may always say "we shall have our own Members".

President.—The Council agrees to *such* a motion.

Mr. Thomas Manjuran.—Such a motion. Probably the language is not happy. There is not however the least difficulty as I shall show. "The other members of the Committee shall be named by the Council". Now, if the other Members of the committee shall be named by the Council, what would happen to the first motion? Suppose the Member in charge of the Bill moves for two individuals to be in the committee. Is it alleged that the Council is helpless?

President.—We are trying to point out that 33, (1) and (2), are simply intended to make the former provision clearer. Suppose at the first motion the mover does not include the official Member nor does he include the mover of the Bill. He simply says the other persons of the committee.

Mr. Thomas Manjuran.—That would be so, if there were not 33 (1); we could say it is simply as an explanation or as a supplement.

President.—So far as the Members are concerned, they may be appointed by the Council.

Mr. Thomas Manjuran.—Here we have got section 31 (5). If the Council agrees to such motion it shall appoint a committee and may direct that its report may be submitted within a specified period. The Council has agreed. Certain appointing powers are given by that section. The other Members shall be named by the Council.

President.—That is only explaining the composition of the first committee. So far as this committee is concerned, the mover can say that such and such persons shall be the Members, shall bring a motion and the Council can agree to such a motion. But in the constitution of the committee one thing the law lays down that the official Member and the mover must necessarily be Members. If, for some reason or other, an omission be made, that will at once be supplied.

Mr. Thomas Manjuran.—It is against the invariable practice of every Council. If the Select Committee is to be constituted of Members named by the mover, the Council is

helpless. I can only say such an interpretation has never been followed by any Council.

Mr. K. P. Kannan Nayar.—That is the interpretation the Member wants to adopt.

Mr. Thomas Manjuran.—The Hon'ble Member has not followed me. Has the Council power to vary the names in any way?

President.—Yes.

Mr. Thomas Manjuran.—Under what section?

President.—When the motion to refer to the Select Committee is made the Council will consider that motion and say that such and such persons need not be in the committee, such and such persons may come in the committee, before the motion is finally passed.

Mr. Thomas Manjuran.—That is to say, if the Council agrees to such a motion for the appointment of a Select Committee, it need not agree to the names of the individuals. That is what I have been just saying.

Mr. T. M. Krishna Menon.—In 5 there is no option. It shall appoint a committee at once. Clause 5 of Standing Order 31.

President.—It shall appoint a committee and may direct its report to be submitted.

Mr. Thomas Manjuran.—That is on the second point. The Leader of the House says that a committee may be appointed at a subsequent stage. The House is not helpless. The personnel of the committee will depend upon the vote of the House and not upon the motion of the mover. Are we agreed so far? Then it comes to this. Section 31 (5) means if the Council agrees.

President.—No.

Mr. Thomas Manjuran.—Otherwise it would be meaningless, Sir. "The Member in charge may immediately move that the Bill be referred to a Select Committee composed of such members as he may specify in his motion". No variations can be made in the committee's personnel. And yet are not variations made every day? The Member gives certain names and there are usually additions. The whole difficulty is due to the infelicity of the language. We cannot however accept a construction which will land us in a mess. The House has obviously the full power to appoint the personnel of the committee. Let us go to section 33 (2): "The other members shall be named by the Council when the motion that the Bill be referred to is made or at any subsequent meeting". No doubt the construction given by the Leader of the House is a possibility. He wants to take advantage of the absence of the term "then and there". I would not go so far. It shall appoint. A stage is

then contemplated which is simultaneous with the motion itself. There may be cases when the Council wants to appoint Members later on. The power will be given by "at any subsequent meeting". The point is this. You yourself observed that it will not be seriously amiss, if one or two Members are added on to the committee. I suppose we are all agreed on that. Whether the submission of the report implies any radical change in the procedure when the Bill is to be resubmitted is the question now before us. What is the meaning of resubmission? The Bill has to go back to the Select Committee for consideration. If Members can be co-opted before the submission of the report, I say there is no objection for co-opting of the Members after the submission of the report. There is absolutely no difficulty. It may be that the language of this enactment is not clear enough, but that is no reason why we should voluntarily eschew reasonable construction. I understand the Madras case. This gentleman, Mr. Sankaran Unni, seems to have been nominated after the Select Committee was constituted, no doubt before the submission of the report. He was nominated to the Council and appointed a Member of the Select Committee.

Mr. T. M. Krishna Menon.—What is the corresponding provision in the Standing Order?

Mr. V. D. Ouseph.—Same.

Mr. Thomas Manjuran.—There is also a matter of principle involved. This legislature, although it is not vested with final authority, should never eschew power. Why has this Bill been referred to a Select Committee? We want to get through this piece of legislation. Are we not authorised or entitled to say we shall have such and such men to help us? Unless we are strictly trammelled by law, why should we eschew power? We were asking a few of our own men to go into this matter. We first asked half a dozen people. We thought it would be an advantage to have one or two more Members on the committee. How is it wrong? Unless we are expressly prohibited, we should deem it foolish to eschew our own power. I submit the motion should be allowed. It will be a positive advantage. We find 70 or 80 amendments.

President.—Mr. Kannan Nayar's position is based on this. It must be laid down after careful consideration as this will serve as a precedent.

Mr. Thomas Manjuran.—But we should not ignore another important fact. No legislature, no Legislative Assembly, ever gets on by printed and passed rules alone. Conventions must develop every day.

President.—Conventions must be laid down with care.

Mr. Thomas Manjuran.—We must remember that the

object of the Select Committee is not really to enact anything but only to help this House in considering this measure.

President.—Not to take away the valuable time of the House, they specially devote their time and give us their views.

Mr. Thomas Manjuran.—In fact to help us. If the same House thinks that it would be an advantage to have one or two additional Members, who is to say nay?

President.—It is left to the House.

Mr. Thomas Manjuran.—Who is to decide but the Council? It does not stand to reason. A thing which does not stand to reason should not prevail.

Mr. T. M. Krishna Menon.—It seems that, if additional Members can be appointed, existing Members may be removed and new Members appointed in their place. The wording of the section is that the other Members of the committee shall be named by the Council. If it is construed as giving the Council the power to appoint additional Members, it must necessarily be understood as giving the Council power to change all the existing Members.

Mr. Thomas Manjuran.—If the House is of that opinion, that may be done.

Mr. T. M. Krishna Menon.—I never questioned that. I say only that it may come to this, i. e., the existing committee may be changed into a different committee. By addition, substitution and subtraction it is quite possible to do so.

Mr. Thomas Manjuran.—If the House says that it has no confidence in a particular body, that can be done.

Mr. T. M. Krishna Menon.—I don't say that. The result will be that.

Dr. E. A. Veigas.—To consider a few amendments it is not necessary to co-opt Members, because section 34 (6) says: "A Select Committee may, for the purpose of obtaining information, invite any person to be present at its sittings." There is no necessity for co-opting Members at all.

President.—He may be present at the sitting. They may ask a few questions and he may answer. They want him for discussion. Supplying information is different from taking part in the discussion.

Mr. M. A. Chakko.—I think a solution may be found for this question by approaching it from a different direction. What we have now agreed to is to have a re-committal of this Bill to a committee. Has this re-committal any reference to section 33 (2)? According to this subsection the other Members of the committee shall be named by the Council when the motion that the Bill be referred is made. In the present case the reference implies re-committal, and re-committal means reference

The first reference is reference. Re-committal is reference a second time or further reference. It will be a *de novo* reference or a further reference. If it is a further reference, of course, we will require the same committee. If it is a *de novo* reference, I think more Members can be added, or, as the Hon'ble Member for Revenue mentioned, certain Members may be subtracted or more added. In either case the word is re-committal. Re-committal means reference for a second time. If reference is to be made for the second time, the procedure for reference for the first time is given in S. O. 33 (2).

Re-committal means further reference or *de novo* reference. The Council has got the authority to appoint a Select Committee and nominate Members either by retaining the old Members and adding more or replacing the old committee by bringing in new Members. I think the words "re-committal" and "reference" must be carefully considered, and emphasis must be placed on the word 're-committal' to understand that it is a committal a second time of the first Bill. So, the same procedure as was adopted for the first time must be adopted for the second time as well.

President.—The question is whether it can be changed.

Mr. M. K. Raman.—Can be changed.

Mr. Thomas Manjuran.—Even wholly recast.

Mr. M. K. Raman.—Section 31 (4) says: "The Member in charge may then immediately move that the Bill be referred to a Select Committee composed of such Members as he may specify in his motion." So, under this section, the Member in charge gets the right of proposing the Bill being sent to a Select Committee. Now my submission is, the Council has no power to remove those Members and substitute others, because you will be pleased to find the 5th clause. "If the Council agrees to such a motion, it shall appoint the Committee and may direct that its report shall be submitted within a specified period." If such a motion is not acceptable to the Council, the Council can oppose that motion, and then the Bill will not be sent to the Select Committee, because you find under section 32: "If no motion for referring the Bill to a Select Committee is made or if a motion is made and negatived, the Member in charge shall not move that the Bill be taken into consideration until the expiration of 15 clear days from the date on which the Bill was read under clause (2) of the preceding paragraph.

Provided that the President may, in his discretion, suspend the above rule and allow the motion to be made at once or before the expiration of 15 clear days".

So the Member can propose the Bill to be referred to a Select Committee consisting of certain Members whom he wants, and the Council may oppose that motion. The Council cannot say you cannot put A, you must remove him and put B instead. As it is, that is the interpretation to be put upon it.

So the Council can oppose that motion and defeat the motion to send it to a Select Committee. But if that is negatived and the motion is not passed, then he is precluded from bringing a new motion for 15 days. Section 33 says that the Member in charge of the Department must necessarily be a Member of the Select Committee and the mover also. Now, when the Bill was proposed to be sent to a Select Committee, certain names were mentioned and then a Committee was actually formed. Then later on, Section 33 says that the other Members of the committee shall be named by the Council, that is to say, the names of the Members other than those proposed by the mover of the Bill. Those proposed by the mover are already there. The official Member in charge of the Department and the mover are also there. The Council can propose the rest of the Members. There is nothing to show it may not be moved at any subsequent sitting nor any subsequent meetings. The other Members of the committee shall be named by the Council when the motion for the Bill to be taken up is made. So it may be at the time when the Bill is sent to the Select Committee or any subsequent sitting. So there is nothing precluding the Council from proposing the names of new Members at any meeting.

President.—There is a contingency which has to be borne in mind with reference to sub-clause 4 of S. O. 31. The motion will ordinarily be that the Bill be referred to a Select Committee consisting of A, B, C and D, and soon after that motion is made, the Council can agree to that motion or negative that motion. So, when the motion is allowed, it is put to votes and passed. So the motion is carried. Then what is there to appoint, when the motion is agreed to?

Mr. M. K. Raman.—That means the mover of the Bill proposes certain names and he requests that the Bill be referred to a Select Committee consisting of A, B, C and D. If the Council is agreed to that motion, then the remaining Members of the committee have to be appointed by the Council.

President.—I want to know whether the appointment of the committee is an act different from the agreeing to the motion, or is it a part of it? That is what I want to know.

Mr. M. K. Raman.—When the Council agrees to the motion of the mover, it means only that the Members he mentions may be there, but other Members can be added.

President.—Ultimately, the House passes the motion and agrees that the Bill be referred to a Select Committee composed of A, B, C and D. So that, when a motion is agreed to, the appointments are also agreed to. When the motion is agreed to, there is no separate motion about the appointment of the

Members. When the Council passes the motion that the Bill be referred to a Select Committee, then it follows that the Members of the committee have been constituted or appointed. There is no separate motion or subsequent motion for the appointment of a committee. That is what I want to impress. The rule simply means that, if a motion is agreed to, the Council shall appoint a committee.

Mr. M. K. Raman.—The committee must be named by the Council.

President.—When the motion is agreed to, where is the scope for naming the Members? Do you mean to say that the Select Committee must consist of certain Members proposed by the mover and agreed to and certain other Members subsequently proposed by the Council?

Mr. M. K. Raman.—Yes, Sir.

Members proposed by the mover alone do not constitute the Select Committee. There may be other Members necessary who are to be proposed by the Council. All these together will form the Select Committee.

President.—So that some names may be proposed by the mover and some names by the Council.

Mr. M. K. Raman.—Yes, Sir.

My point is only this. The Council has the right of proposing the names of the other Members of the Select Committee.

Mr. V. K. Kochunni Menon.—Standing Order 31 simply gives the mover the right to name the Members of the committee. But S. O. 33 shows that the Council is not bound to accept those names and that the right to determine the Members rests with the Council. It is only when the Council accepts the names proposed by the mover, they will be Members of the Select Committee. This may be done at the time of the motion under S. O. 31 or after. S. O. 33 shows that the power lies with the Council. With regard to the other section, re-committal in clause (c) of section 36 refers to *the* Select Committee. Can it be to any committee other than the original committee?

President.—Of course, if new Members are added to a Select Committee, that also is a Select Committee.

Mr. T. M. Krishna Menon.—That difficulty is solved because there is re-committal there.

Mr. P. Krishna Menon.—I am afraid that the whole discussion turns upon a misconception. The misconception, according to me, is that it is presumed that the Select Committee which has already submitted a report is still in existence. Is that so? Or does it become a functionary when the report is submitted?

President.—When you say re-committal to the Select Committee, what are we to understand?

Mr. P. Krishna Menon.—That is 'a reconsideration by the committee'. It does not say the committee.

Mr. A. B. Salem.—Sir, here is a sentence which will easily dispose of the matter. "If, from any special circumstances a larger number should be thought necessary, the House, after notice previously given, makes the necessary order."

That is the established Parliamentary convention. "In compliance with these orders, a Select Committee is usually confined to 15 Members, but if, from any special circumstances, a larger number should be thought necessary, the House, after notice previously given, makes the necessary order".

Mr. T. K. Krishna Menon.—There is also another sentence there that the Standing Order empowers the House to select.

Mr. A. B. Salem.—If our Standing Order is silent on it, then we must bring it into line with the established Parliamentary convention. That is what I want to submit.

Mr. P. Krishna Menon.—What I want to say is that the process of referring to the Select Committee and the appointment of the Select Committee are two distinct ideas. The appointment of the Select Committee and the motion to commit the Bill to a Select Committee are two distinct ideas as well as acts; and when we find there is room for reference to the Select Committee along with the appointment of a committee, the earlier section applies. There are further steps when the two are not done simultaneously. Therefore, what I say is that, when the two acts are separate, we need follow that procedure, when we are re-committing the Bill also. Therefore, if a motion is passed to re-commit or refer, it is presumed that the subsequent reference is to appoint a committee. Therefore, they being separate, the appointment of it is also separate. And there is nothing to show that the Council cannot appoint an independent committee.

President.—Now, when this re-committal is resolved upon, we will have to appoint a fresh committee.

Mr. P. Krishna Menon.—A fresh committee may be appointed in place of the original one.

President.—Your point is that there the original committee does not exist. Now, if re-committal is sanctioned, we have to appoint a fresh committee. If a fresh committee is to be appointed, there is no difficulty.

Dr. A. R. Menon.—It is the privilege of the person who brings the Bill to enumerate the Members, as the section stands. It is his privilege to name a number of Members. It is only the power of the House to

agree to it. That has been the procedure we have been adopting, and it seems to a layman that the sentence is clear. As Mr. Raman submitted, you cannot split it up into two. The language says that, if the Bill is accepted, he may move for the appointment of a committee the Members of which can be named by the mover himself. So, that is a very great position. And that is a very good right which we have in this House. For, we have no other right here. So, we do not allow that right to be taken away. The Council has the power to nominate any Member.

Mr. T. K. Krishna Menon.—Sir, this might be a very innocent affair. But I am sorry to have to say that I feel very nervous over these conventions. For instance, the convention on the cut motion as at present is that, on a token motion on a demand for a small grant for newspapers or for a night school, one can enlarge on the Anappara Scheme or on the whole relationship between Cochin and Cranganur, and trespass into eternity. It is rarely allowed elsewhere. With regard to this particular affair, I may just bring to the notice of the President these two paragraphs for his guidance in the matter of giving a ruling. They are from Mr. Chamier's "Parliamentary Procedure in India."

"The question was then put that the Bill be re-committed to Select Committee and during the debate on that motion a member suggested adding the names of other members to the Select Committee. The President ruled that this was out of order. The Select Committee had been appointed at the preceding Session; the motion before the Council was not whether any additions should be made to the Select Committee and members could not speak on that point. He reserved for future decision, however, the question whether a motion to add names to the Select Committee would be in order or not when the actual proposition was being moved."

Mr. Thomas Manjuran.—It is directly against you.

Mr. T. K. Krishna Menon.—So much the better for him, Sir. Another paragraph:—"The President of the Legislative Assembly had his attention drawn to the words in the Standing Orders "or at any subsequent meeting". He held, however, that these words referred only to the appointment of members to replace any member who had resigned or had to give up the work. He confirmed his ruling that as a rule any motion for the appointment of a Select Committee should be accompanied by a statement of the names of the members proposed and the mover of the motion should obtain their authority."

Now, the only reason for co-opting two Members is that they would be very useful for enlightening the present Select Committee with their views. That, as was pointed out by a Member, could be done under Standing Order 34 C.

Mr. Thomas Manjuran.—The passage read by my Hon'ble friend gives the strongest support to our case. There, the question was whether there was any motion in reference to the appointment of a Select Committee. Parliamentary procedure also is directly against it. The first passage is directly against you. That is the clearest possible support for us. Suppose a particular committee refused to work for some reason or other. The House has power to appoint another later on, irrespective of the question of reason. After having appointed a Select Committee, the House, on eventualities, has power to appoint other Members to it. The Regulation does not say about vacancies. A ruling may be kindly made.

The Select Committee having reported on the Kuri Bill, Mr. Kunjunni Raja, the Member in charge of the Bill, moved that the Bill, as reported by the Select Committee, be taken into consideration. Mr. C. J. Mathew thereupon moved as an amendment that the Bill be re-committed under Standing Order 37. This motion having been passed by the House, Mr. C. J. Mathew next moved that two more Members of the Legislative Council, *viz.*, Messrs. V. D. Ouseph and C. V. Kuriyan, be added to the Select Committee for the purpose of considering certain amendments of which notice has been given to the Council. Upon such a motion, a point of order has been raised to the effect that the Select Committee originally constituted cannot be modified in any way; in other words, no addition, removal or substitution could be made to the original list.

The point is not an easy one to decide, and there was considerable discussion in the House about the interpretation of the appropriate Standing Orders bearing on the subject. These Standing Orders are Standing Order 31 (3), (4) and (5) and Standing Order 33 (1) and (2).

Having carefully examined the provisions in the Standing Orders referred to above, I am of opinion that the language used cannot be said to be happy and is of such a nature that it can be interpreted in more than one way. It is on this account that considerable time was spent in the Council in discussing the matter. Standing Order 31 (4) says that "the Member in charge of the Bill may then immediately move that the Bill be referred to a Select Committee composed of such Members as he specifies in his motion." Standing Order 31 (5) says that, "if the Council agrees to such a motion, it shall appoint the committee." If this provision had stood alone, it is manifest that the mover of the Bill is to

name the Members in his motion, and it is open to the Council to agree to the motion or to negative it. If the motion is agreed to, a Committee must be taken to have been appointed on the passing of the motion. This provision would have been enough for all reasonable purposes. This subject is again referred to in S. O. 33. S. O. 33 (1) says that certain Members, viz., "the official Member in charge of the Department to which the Bill relates and the Member who introduces the Bill, shall be Members of every Select Committee, and it shall not be necessary to include their names in any motion for the appointment of a Committee." This is an imperative provision, and even assuming that an omission has been made in the motion of the mover of the Bill, this will have to be supplied when the Select Committee is appointed. It is the next clause, viz., 33 (2), that has given rise to considerable difficulty. S. O. 33 (2) says: "the other Members of the Committee shall be named by the Council when the motion that the Bill be referred is made, or *at any subsequent sitting*." When the mover's motion has been agreed to and the appointment of the Committee has been made under S. O. 31, it is clearly understood why this provision, viz., under S. O. 33 (2), has been introduced. In agreeing to the motion to refer to a Select Committee brought forward by the mover of the Bill, he would refer to the names who should be included in the Committee as required by S. O. 31 (4), and, in connection with the discussion of that motion, the question as to who should compose the Members would be considered and settled. If that be so, why should the Council name the Members when the motion that the Bill be referred to a Select Committee is made, as stated in S. O. 33 (2)? It appears to me that clearer language could have been employed to remove all doubts on this question. The language of the statute not being clear on the subject, it is permissible to rely upon the spirit underlying this question. It cannot be disputed that it is within the power of the Council to say who should form the Members of the Select Committee in a particular case. If that be so, it cannot reasonably be said that the power having once been exercised it has come to an end, and that no change whatsoever could be made in the constitution of the Committee. The expression 'at any subsequent sitting' must have some meaning attached to it, and it appears to me that, in proper cases, the Council can take up the question of the composition of the Committee and add to it more Members. Such a power seems to be absolutely necessary, as otherwise the vacancies in the Committee either by death or other causes cannot be filled up, and the case may be one in which the Council is strongly of opinion that the original Member should be kept up.

For the foregoing reasons, I am of opinion that new Members of the Council may be added to the Select Committee on a Bill being re-committed to it under S. O. 37.

Question proposed: *That Messrs. V. D. Ouseph and C. V. Kuriyan be co-opted to the Select Committee.*

Question put and agreed to.

President.—Mr. Ramachandra Ayyar was telling me about an adjournment motion. You want my order? It does not appear to be a clear case, and it will take some time before I pass an order. I cannot easily say whether it is in order or not.

Mr. T. A. Ramachandra Ayyar.—We can have it tomorrow.

The House rose for lunch at 2-3 p. m. and met again at 3 p. m. with the Deputy President in the Chair.

5. Election of non-official Members for the Standing Finance Committee.

Deputy President.—Election of Members of the Standing Finance Committee. You have got the forms, I believe. Please note down the names.

Dr. A. G. Menon.—I think that there is no necessity for a vote. We have come to an understanding that Messrs. C. J. Mathew, A. B. Salem and P. Krishna Menon be the Members of the Standing Finance Committee. There will be no opposition, I believe.

Mr. M. K. Raman.—I second it.

Motion put and agreed to.

6. Cochin Free Compulsory Primary Education Bill.

Deputy President.—We shall go on with the Bills for introduction.

The first is Mr. K. T. Mathew's. The Member is absent.

Hence the motion was considered withdrawn.

7. Bill to amend the Cochin Christian Succession Regulation VI of 1097.

Mr. V. D. Ouseph.—I move that the Bill to amend the Cochin Christian Succession Regulation VI of 1097 be read in Council.

Mr. C. J. Mathew.—I second it.

Mr. V. D. Ouseph.—The objects and reasons are given in detail along with the Bill itself. They will speak for themselves. Of course the main purpose of the Bill is to make better provision—rather enhance the share of inheritance—for women. Personally I am for giving equal shares to sons and daughters. But I thought that may not be very acceptable to